

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

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| IN RE: ENRON ENERGY SERVICES, INC. | DOCKET NO. CGP-01-11 |
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**ORDER DENYING APPLICATION AND GIVING NOTICE OF
POSSIBLE CIVIL PENALTIES**

(Issued January 15, 2002)

On June 4, 2001, Enron Energy Services, Inc. (Enron), filed with the Utilities Board (Board) a request for a waiver of the requirement to file an application as a competitive natural gas provider (CNGP) by June 1, 2001, as required by 199 IAC 19.14(2) for companies operating in Iowa before April 25, 2001. The Board granted the waiver by order issued June 7, 2001, and gave Enron until July 2, 2001, to file the application. Pursuant to 199 IAC 19.14(2), Enron could continue to provide service to its Iowa customers pending the approval of its application.

On August 24, 2001, Enron filed the application requesting the issuance of a certificate as a CNGP by the Board. The application has been identified as Docket No. CGP-01-11. The Board's rules at 199 IAC 2.2(18) and 19.14 establish the filing requirements for the issuance of a certificate. On August 29, 2001, the Board notified Enron that the application was complete and the 90-day review period had begun. The 90-day review period was scheduled to end on November 27, 2001.

On November 26, 2001, Enron filed a letter limiting its application for approval to serve large volume customers only. By order issued November 27, 2001, the Board extended the determination date of the application an additional 60 days to January 25, 2002, to allow Enron to file additional information concerning the application.

The November 26 letter from Enron indicated that Enron Corporation, Enron's parent company, was involved in a merger with another company, which was not expected to affect the application. Since the November letter from Enron, the Board has learned that: 1) Enron Corporation filed paperwork with the Securities and Exchange Commission on November 19, 2001, restating its earnings back to 1997, which eliminated more than \$580 million in reported income in that time span; 2) the merger mentioned in the November 26 letter was cancelled; 3) Enron Corporation filed for bankruptcy protection; and 4) Enron Corporation laid off approximately 4,000 employees (almost 20 percent of its worldwide work force).

The information about the financial problems of Enron Corporation raised questions with the Board concerning the financial and managerial information filed by Enron to support the application. Enron filed the Enron Corporation Annual Report for the year 2000 as the financial support for the application. Board staff attempted to contact Enron management by both e-mail and telephone to obtain additional information. Board staff did not receive a response from Enron representatives from

messages left by telephone and the e-mail messages were returned as undeliverable.

Because of the information concerning the financial viability of the parent corporation of Enron and the failure of Enron to respond to Board-attempted inquiries, the Board finds that the application should be denied. Iowa Code § 476.87 requires an applicant must reasonably demonstrate the financial and managerial capability sufficient to obtain and deliver the services the applicant proposes to offer. The Board finds that the information provided does not meet this criteria.

Since Enron will not be granted a certificate as a competitive natural gas provider for Iowa, it must exit the Iowa market. The Board will direct that Enron, within 30 days of the date of this order, file in this docket a listing of all existing contracts between Enron and Iowa customers and the date those contracts are to terminate. Enron will also be required to file a detailed plan for exiting the Iowa competitive natural gas market by May 1, 2002. Enron cannot provide service as a competitive natural gas provider in Iowa after May 1, 2002, or until Enron has filed another application and been granted a certificate by the Board.

Enron is put on notice pursuant to Iowa Code § 476.51 for its violation of the 199 IAC 19.14(2) CNGP certificate requirement and of the Board's order of June 7, 2001, in Docket No. WRU-01-31-3567, in which it was required to file an application by July 2, 2001. Further violation of 199 IAC 19.14(2) by failing to exit the market

and to document that exit as required in this order will expose Enron to civil penalties under Iowa Code § 476.51.

Enron is also put on notice that it violated 199 IAC 19.14(3), which requires that an applicant for a certificate must notify the Board within 14 days if there is a material change in the information provided in support of the application. The bankruptcy filing of Enron's parent corporation and the effect that had on Enron's financial and managerial capability are material changes. Further violation of 199 IAC 19.14(3) by failing to provide updated information concerning Enron's exit from the market may be subject to civil penalties.

IT IS THEREFORE ORDERED:

1. The application for a certificate as a competitive natural gas provider filed by Enron Energy Services, Inc., on August 24, 2001, is denied for the reasons stated in this order.
2. Within 30 days of the date of this order, Enron Energy Services, Inc., shall file a list of all existing contracts with Iowa customers, showing the termination date of those contracts and a detailed plan for exiting the Iowa competitive natural gas market by May 1, 2002.
3. Enron Energy Services, Inc., is notified pursuant to Iowa Code § 476.51 that another violation of 199 IAC 19.14(2) or (3) by failure to comply with the market exit requirements of this order may result in civil penalties under Iowa Code § 476.51.

4. A copy of this order shall be sent to all investor-owned, municipal and cooperative natural gas companies within Iowa.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper _____
Executive Secretary

Dated at Des Moines, Iowa, this 15th day of January, 2002.